

**N.D.A.G. Letter to Sillers (Jan. 29, 1985)**

January 29, 1985

Mr. Cameron D. Sillers  
Cavalier County State's Attorney  
901 Third Street  
Langdon, North Dakota 58249

Dear Mr. Sillers:

Thank you for your letter dated January 11, 1985, regarding N.D.C.C. §5-02-06.

Your question concerned whether a local bar that has obtained a restaurant license and only serves food on specific nights during the week can allow minors to be on the licensed premises to eat if the gross sales of food are equal to the gross sales of alcoholic beverages on the night the restaurant is open.

The restaurant exception contained in N.D.C.C. §5-02-06 states, in part:

5-02-06. PROHIBITIONS AS TO PERSONS UNDER TWENTY-ONE YEARS OF AGE - PENALTY - EXCEPTIONS . . .Any person under twenty-one years of age may remain in a restaurant where alcoholic beverages are being sold if the restaurant is separated from the room in which alcoholic beverages are opened or mixed, if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area. . . . (Emphasis supplied).

Minors may only be on the licensed premises if the bar area is separated from the licensed area of the establishment and if the gross sales of food are equal to gross sales of alcoholic beverages which are consumed in the dining area. This calculation is not based on a per night sale, but rather for sales over the entire year. An average must be taken over the year as it is possible that on certain days the gross sales of the food will not be equal to the gross sales of the alcoholic beverages.

Sincerely,

Nicholas J. Spaeth

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